

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	Case No. 8:04CR534
)	
Plaintiff,)	
)	
v.)	ORDER
)	
SHAWN DAVIS,)	
)	
Defendant.)	

The government has filed a motion for hearing pursuant to Federal Rule of Criminal Procedure 35(b). Filing No. 59.

IT IS ORDERED that:

1. A Rule 35 hearing is scheduled before the undersigned on **November 9, 2006, at 9:30 a.m.** in Courtroom No. 3, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

2. At the request of the defendant through his counsel, and with the agreement of the government, the defendant may be absent from the hearing on the Rule 35 motion.

3. The Marshal is directed to return the defendant to the district for this hearing. If the defendant at a later date decides to waive his right to be present at the hearing, he may do so (at least 6 weeks prior to the hearing) by contacting his attorney who shall then inform the court and the U.S. Marshal of defendant's decision. In that event, the defendant may participate telephonically in the hearing by informing his attorney, who in turn shall supply this court with a telephone number at which the defendant may be reached for the hearing.

4. Counsel for the defendant, if previously appointed pursuant to the Criminal Justice Act, is reappointed to represent the defendant for purposes of the Rule 35(b) motion. If retained, counsel for the defendant remains as counsel for the defendant until the Rule 35(b) motion is resolved or until given leave to withdraw.

5. The Federal Public Defender shall provide CJA counsel with a new voucher.

6. The Clerk of the Court shall electronically serve a copy of this order to counsel for the government, counsel for the defendant, and the Federal Public Defender.

DATED this 25th day of September, 2006

BY THE COURT:

s/ Joseph F. Bataillon

JOSEPH F. BATAILLON

United States District Judge